

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00505
Petitioner: Raymond & Ellen Mazur Trust
Respondent: Department of Local Government Finance
Parcel #: 009091101630011
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on December 4, 2003, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$130,300. The DLGF's Notice of Final Assessment was sent to the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 23, 2004.
3. The Board issued a notice of hearing to the parties dated October 8, 2004.
4. A hearing was held on November 16, 2004, in Crown Point, Indiana before Special Master Jennifer Bippus.

Facts

5. The subject property is located at 7305 W 86th Avenue, Crown Point, in St. John Township.
6. The subject property is a two-story single-family residence.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined that assessed value of the subject property to be \$30,500 for the land and \$99,800 for the improvements for a total assessed value of \$130,300.
9. The Petitioner requested an assessed value of the subject property of \$30,500 for the land and \$99,000 for the improvements for a total assessed value of \$129,500.

10. Raymond and Ellen Mazur, representatives of the Petitioner, and Anthony Garrison, representing the DLGF, appeared at the hearing and were sworn as witnesses.

Issue

12. Summary of Petitioner's contentions in support of alleged error in assessment:
 - a) The Petitioner contends that a metal shed that is not attached to a permanent foundation should not be assessed. *Raymond Mazur testimony.*
 - b) Further, the Petitioner testified that the subject shed was purchased in 1995 for \$234.36 (actual cost was \$349.99). *Raymond Mazur testimony; Petitioner Exhibit 1.* According to the Petitioner, this shed could be purchased presently for \$279.99. *Raymond Mazur testimony; Petitioner Exhibit 6.*
 - c) The assessed value on the subject shed is \$1,100 for the 1999 reassessment (2002) and this is too high. *Raymond Mazur testimony.*
 - d) The Petitioner further submitted photographs of the shed. *Petitioner Exhibits 4 and 5.*
13. Summary of Respondent's contentions in support of assessment:
 - a) The Respondent submitted property record cards (PRCs) for three comparable properties from the Petitioner's neighborhood. *Garrison testimony; Respondent Exhibits 4, 5, & 6.*
 - b) The Respondent testified that the comparable properties were all within the same neighborhood and ranged in value from \$65.37 to \$80.01 per square foot. *Garrison testimony; Respondent Exhibit 4.* According to the Respondent, the Petitioner's home is valued at \$63.75 per square foot and falls within the range of the comparables. *Garrison testimony; Respondent Exhibit 4.*
 - c) The Respondent presented no evidence related to the value of the utility shed.

Record

14. The official record for this matter is made up of the following:
 - a) The Petition.
 - b) The tape recording of the hearing labeled Lake #1043.
 - c) Exhibits:

Petitioner Exhibit 1: Copy of the original sales receipt for the utility shed

Petitioner Exhibit 2: Copy of the size and information on the utility shed
Petitioner Exhibit 3: Internet print out with the price of the storage shed in April of 2004
Petitioner Exhibit 4: Photograph of the storage shed (front) dated February 2, 2004
Petitioner Exhibit 5: Photograph of the storage shed (side and rear) dated February 2, 2004
Petitioner Exhibit 6: Copy of a recent sales advertisement for a metal storage building, 10' x 12'

Respondent Exhibit 1: Copy of Form 139L
Respondent Exhibit 2: Copy of PRC of subject property
Respondent Exhibit 3: Subject property photograph
Respondent Exhibit 4: Chart of comparable property statistics
Respondent Exhibit 5: PRCs and photographs for three comparable properties
Respondent Exhibit 6: Height design sheet from the Indiana Real Assessment Guidelines

Board Exhibit A: Form 139L petition
Board Exhibit B: Notice of Hearing on Petition
Board Exhibit C: Sign-in Sheet

d) These Findings and Conclusions.

Analysis

15. The most applicable governing cases are:
- a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id*; *Meridian Towers*, 805 N.E.2d at 479.

16. The Petitioner provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner claimed that the metal storage shed is not on a permanent foundation and, therefore, should not be assessed. This is incorrect. The assessment of real property includes land, buildings and fixtures situated on the land and appurtenances to the land. THE REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (incorporated by reference at 50 IAC 2.3-1-2) (the GUIDELINES), Chap. 1, p. 2. Thus, land, buildings and fixtures situated on the land are assessable property and the utility structure’s lack of permanent foundation does not impact the assessment.¹
 - b) The Petitioner also contended that the assessed value of \$1,100 is too high. *Raymond Mazur testimony*. In support of this contention, the Petitioner provided a sales receipt from 1995 for the purchase of the subject metal shed for \$349.99. In addition, the Petitioner testified that additional materials and labor were worth approximately \$100.00. *Id.* The Petitioner also provided a recent advertisement (2004) for the same utility shed (Arrow brand name) with an advertised rate of \$279.99 and another example of the same size utility building advertised for \$269. *Petitioner Exhibits 1, 2, 3, and 6.*
 - c) The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may use any generally accepted appraisal methods as evidence consistent with the Manual’s definition of true tax value, such as sales information regarding the subject or comparable properties that are relevant to a property’s market value-in-use, to establish the actual true tax value of a property. *See* MANUAL at 5. “Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals that are relevant to market value-in-use of the property, and any other information compiled in accordance with generally accepted appraisal principles.” *Id.* Thus, a taxpayer may establish a prima facie case based upon construction cost or sales information. Here, the Petitioner submitted evidence that the Petitioner purchased the shed for approximately \$350. Further, the Petitioner estimated that an additional \$100 of materials and labor were expended in constructing the shed. Thus, the Petitioner has raised a prima facie case that the shed is over-valued.
 - d) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The Respondent contended that the per square foot value of the subject property falls within the range per square foot value for the comparables and therefore no change should be made. *Respondent Exhibit 4.* However, the Respondent presented no evidence regarding the existence or value of

¹ Even a “portable utility shed” is assessed as real property. GUIDELINES, Chap. 1, p. 11.

the metal storage shed. Thus, the Respondent failed to rebut the Petitioner's evidence.

Conclusion

15. The Petitioners made a prima facie case that the metal utility shed was assessed incorrectly. The Respondent failed to rebut this evidence. The Board finds in favor of the Petitioner and determines that the metal shed has a value of \$450 which represents the approximately \$350 purchase price and \$100 in additional materials and labor to construct the shed.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code § 4-21.5-5-7(b)(4), § 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>, The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.